

**Introduced by Senator Torlakson**

February 13, 2004

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An act to add Article 7 (commencing with Section 65965) to Chapter 4.5 of Division 1 of Title 7 of the Government Code, relating to development.

LEGISLATIVE COUNSEL'S DIGEST

SB 1263, as introduced, Torlakson. Development projects: mandatory approval.

(1) The Planning and Zoning Law generally regulates the review and approval of development projects and authorizes a planning agency or, if so directed by the legislative body of a city or county, requires the planning agency to prepare specific plans containing prescribed matters relating to land use to implement the general plan for all or part of an area covered by the general plan. That law requires a public agency to comply with specified timelines in connection with the approval of development projects, and prohibits a public agency from disapproving a development project solely in order to comply with the specified time limits, but does not otherwise require that a development project be approved.

This bill would require a public agency to approve a development project that is consistent with certain specific plans approved on or after July 1, 2004, unless the agency finds that approval would result in a specific, significant, adverse effect upon the public health or safety that cannot feasibly be mitigated or avoided. This requirement would create a state-mandated local program by imposing new duties on local agencies. The bill would contain related legislative findings and declarations, and a statement of legislative intent relative to the

promotion of approval of development projects in areas that have been properly planned for development.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 7 (commencing with Section 65965) is  
2 added to Chapter 4.5 of Division 1 of Title 7 of the Government  
3 Code, to read:

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5 Article 7. Mandatory Approval of Development Projects

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7 65965. (a) The Legislature finds and declares all of the  
8 following:

9 (1) The approval of inadequately planned development  
10 projects threatens the public peace, health, and safety of  
11 California, resulting in deteriorating air and water quality,  
12 unreliable water supplies, the loss of open space, including  
13 productive agricultural land, diminished mobility and crowded  
14 transportation facilities, and an inadequate supply of affordable  
15 housing.

16 (2) The approval of well-planned development projects  
17 advances the public peace, health, and safety by managing natural  
18 resources, directing public funds to needed infrastructure,  
19 promoting the supply of affordable housing, and attracting and  
20 sustaining private investment.

21 (3) One of the ways for cities, counties, and cities and counties  
22 to plan properly for future development projects is the preparation  
23 and adoption of specific plans with environmental impact reports  
24 that include water supply assessments.

25 (4) The approval of development projects that are consistent  
26 with certain specific plans is not a municipal affair, but is instead



1 a matter of statewide concern to the public peace, health, and  
2 safety of California.

3 (b) In enacting this article, it is the intent of the Legislature to  
4 promote the approval of development projects in areas that have  
5 been properly planned for development.

6 65965.1. A public agency shall approve a development  
7 project that is consistent with a specific plan meeting the  
8 conditions of Section 65965.2, unless the agency finds that the  
9 approval would result in a specific, significant, adverse effect upon  
10 the public health or safety, and that there is no feasible method to  
11 satisfactorily mitigate or avoid that adverse effect.

12 65965.2. This article shall apply only to specific plans  
13 approved on or after July 1, 2004, for which an environmental  
14 impact report has been certified, and the environmental impact  
15 report included a water supply assessment pursuant to Part 2.10  
16 (commencing with Section 10910) of Division 6 of the Water  
17 Code.

18 65965.3. In any action or proceeding to attack, set aside, void,  
19 or annul a decision to approve a development project pursuant to  
20 this article, there shall be a rebuttable presumption of the validity  
21 of the decision by the public agency to approve the development  
22 project.

23 65965.4. Nothing in this article shall be construed to relieve  
24 any public agency from complying with any other applicable state  
25 or federal laws, including, but not limited to, the California  
26 Environmental Quality Act (Division 13 (commencing with  
27 Section 21000) of the Public Resources Code).

28 65965.5. Nothing in this article shall preclude a city, county,  
29 or city and county from requiring a developer to enter into a  
30 development agreement pursuant to Article 2.5 (commencing with  
31 Section 65864) of Chapter 4.

32 SEC. 2. No reimbursement is required by this act pursuant to  
33 Section 6 of Article XIII B of the California Constitution because  
34 a local agency or school district has the authority to levy service  
35 charges, fees, or assessments sufficient to pay for the program or  
36 level of service mandated by this act, within the meaning of  
37 Section 17556 of the Government Code.

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